

Full Court.]

EX PARTE WALLACE.

Nov. 17.

*Canada Temperance Act - Service of summons - Clerk of hotel -
Adult inmate of household.*

A constable's return of the service of a summons in a Scott Act case, alleging that the summons was left with A.B., a clerk in the defendant's employ at the latter's hotel, without shewing that he was an adult inmate of the household, is bad.

M. G. Teed in support of rule. *W. B. Chandler, Q.C.,* contra.

Full Court.]

ACKERMAN P. BOYD.

[Nov. 17.

*Agreement to purchase land - Default in payment - Tenant at will
- Summary ejectment Act.*

A. and B. entered into an agreement for the purchase by B. from A. of a lot of land at \$450, to be paid in five equal consecutive annual instalments on or before the 10th July every year, with a proviso that in default of payment of any of the instalments, B. should pay interest thereon at 6 per cent. from the date when due, under which agreement B. went into possession.

Held (VANWART, J., dissenting), that B., having paid the first two instalments, by making default in the subsequent ones, became a tenant at will to A., and as such was liable to be proceeded against under the Summary ejectment Act. Appeal from Queen's County Court setting aside the proceedings before two justices of the peace under the Summary ejectment Act allowed, with costs.

John R. Dunn in support of appeal. *M. McDonald* contra.

Full Court.]

EX PARTE DOHERTY.

[Nov. 17.

C. T. Act - Second arrest on same warrant - Estopped.

Applicant was convicted of a fourth offence under C. T. Act. A warrant was placed in the hands of a constable, who after keeping it for some time went to defendant to execute it, and told him he would have to come to jail with him. Defendant, complaining of the great inconvenience he would be put to if placed in custody at that time, induced the constable to hold off for a week or two longer by agreeing to deposit \$100 with him. Later on the constable arrested the defendant on the same warrant and lodged him in jail.

Held, on application for his discharge by *habeas corpus* on the ground that he had been twice arrested on the same warrant, (VANWART, J., dissenting), that even if an arrest had been effected on the first occasion when the constable agreed to hold off, it was called off by defendant's own request and he was therefore estopped. Application refused.

Pagstey, Q.C., in support of application. *F. A. McCully* contra.